



**Office of the Clerk  
UNITED STATES COURT of APPEALS for the NINTH  
CIRCUIT  
95 Seventh Street, Post Office Box 193939  
San Francisco, California 94119-3939**



Cathy A. Catterson, Clerk of Court

(415) 556-9800

*Effective January 1, 2001*

**AMENDMENTS to the GENERAL ORDERS**

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**Added new chapter to General Orders. See below.**

**CHAPTER VII.  
Mediation Office**

**7.1 Purpose and Staffing**

The Circuit Mediation Program was established pursuant to FRAP 33 and Circuit Rule 33-1. The goals of the program are to facilitate the voluntary resolution of appeals in order to reduce the court's workload and to offer parties an alternative to litigation to resolve their disputes.

The circuit mediators are employed by the court to facilitate the resolution of cases and perform such other duties as the court directs. They are experienced attorneys who have extensive training and experience in negotiation, mediation and Ninth Circuit practice and procedure. In facilitating the resolution of disputes, the mediators act as adjuncts to the court and perform a traditional judicial function.

**7.2 Authority to Enter Orders**

The mediators are certified as deputy clerks and may enter orders as described in Appendix A. They may also issue other procedural orders that facilitate the goals of the program, including orders that require parties (or party representatives with settlement authority), counsel and any other person subject to the jurisdiction of the court to participate in settlement discussions. These discussions may take place in person, by telephone, or through written communications. Counsel shall be so advised, and discussions shall be arranged in such a manner as to avoid burdensome time and expense requirements upon the parties and attorneys.

A motion or petition for reconsideration, rehearing or clarification of an order entered by a mediator should be referred initially to that mediator. If the mediator declines to reconsider, the motion or petition will be referred to the chief circuit mediator.

### **7.3 Cases Subject to Mediation**

The mediators may act on their own initiative in any matter pending before the court that has not been assigned to a panel. Where a panel has been assigned, they may act only with the permission and at the direction of the panel.

The Civil Appeals Docketing Statement is the primary means by which the mediators identify cases for inclusion in the mediation program. Counsel in any matter pending before the court may contact the mediation office to seek assistance in pursuing the voluntary resolution of a case. Only in extraordinary circumstances and with permission of the chief circuit mediator will the mediators participate in negotiations involving pro se litigants.

Any panel may refer a case to the mediation program at any time. Upon referral of a case, the mediator assigned to the case may enter orders related to the mediation function. In cases assigned to a merits panel, the panel may defer or vacate submission pending the outcome of mediation.

### **7.4 Confidentiality**

The court exercises great care to ensure strict confidentiality of the settlement process. Settlement-related information disclosed to a mediator will be kept confidential and will not be disclosed to the judges deciding the appeal or to any other person outside the mediation program participants. Documents and correspondence related to settlement shall be maintained only in the mediation office and not made part of the main Ninth Circuit case file. The mediation office may adopt additional procedures to protect confidentiality.

### **7.5 Imposition of Sanctions**

The chief circuit mediator may enter orders to show cause regarding sanctions to address issues that arise in the mediation program. Sanctions may be appropriate if a participant willfully fails to comply with any properly issued order, including an order to attend a settlement conference, or otherwise demonstrates manifest bad faith in the mediation process. Any response to the order to show cause shall be referred to the chief circuit mediator, who may discharge it or refer it to the appellate commissioner or a panel for further action.

### **7.6 Processing of Selected Cases**

The Clerk will refer all procedural motions in cases selected for mediation to the mediation office. The Clerk will notify the mediation office before assigning to a calendar a case that has been selected for mediation. However, absent an order staying the matter, it will be assigned in the regular course.